Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

In the Matter of	)	
	)	
Open Network Architecture Tariffs of Bell Operating Companies	)	CC Docket No. 92-91

REBUTTAL

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SUMMARY

In this Rebuttal, BellSouth addresses the comments made by intervenors regarding BellSouth's Direct Case and the other SCIS-related issues which the Bureau has incorporated into this proceeding. BellSouth demonstrates, once again, that its ONA costing and pricing methodologies are reasonable and fully consistent with the Commission's requirements.

The overall thrust of the intervenors' comments is that the Bureau should impose upon BOCs uniform costing and pricing requirements. They attempt to support this contention by speculation that, otherwise, manipulative and discriminatory costing and pricing will result to the benefit of the BOCs own competitive operations and to the detriment of BOCs' competitors.

Such contentions are baseless. First, the Bureau has no authority to depart from the "flexible cost-based" standard established by the Commission in the ONA/Part 69 Order. Secondly, uniformity among the BOCs in costing and pricing methodologies is not necessary and, indeed, is not even relevant to assure that BOCs do not unreasonably discriminate or otherwise violate the Commission's rules or statutory requirements. The Bureau's review must focus upon the methodologies of each individual BOC rather than upon a

comparison of methodologies from BOC to BOC. Third, there is no evidence of anticompetitive and discriminatory pricing. Indeed, the methodology utilized by BellSouth to cost its BSEs, i.e. to identify the price floor for its BSEs, was consistently applied across all of BellSouth's BSEs in a manner consistent with the methodology utilized by BellSouth to identify the price floor for other non-BSE services. Further, although BellSouth was not required to do so under the Commission's rules, BellSouth loaded the direct costs of each BSE in a consistent manner.

The Bureau has before it in this proceeding far more support than has ever been supplied in a tariff review proceeding. The Bureau should reject the intervenors' suggestions that even more detail is needed. Indeed, the micromanagement of the BOCs' filings which intervenors request would be a regression back to rate of return, fully distributed cost regulation, a path wholly incompatible with the progression toward a competitive, market based approach which is necessary to assure an even playing field in the new telecommunications era which is now upon us.

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REBUTTAL

BellSouth Telecommunications, Inc. ("BellSouth") hereby submits this Rebuttal to the Oppositions filed against its Direct Case in the above-captioned ONA tariff investigation proceeding.

I. INTRODUCTION

This investigation relates to the initial ONA access tariff filings made by the Bell Operating Companies ("BOCs").[1] In its Suspension Order, the Common Carrier Bureau ("Bureau") suspended the ONA rates for one day, imposed an accounting order, and instituted this investigation.[2] The Bureau designated specific issues for investigation concerning the cost and loadings methodologies

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[1] BellSouth filed its initial ONA access tariff under BellSouth Telephone Companies Tariff F.C.C. No. 4, Transmittal No. 436, on November 1, 1991. Subsequent amendments to this filing were made on November 25, 1991, under Transmittal No. 442, on January 29, 1992, under BellSouth Telecommunications, Inc. Tariff F.C.C. No. 4, Transmittal No. 11, and on February 14, 1992 under BellSouth Telecommunications, Inc. Tariff F.C.C. No. 1, Transmittal No. 19.

[2] Bell Atlantic Telephone Companies, et al., Open Network Architecture Tariffs, 7 FCC Rcd 1512 (1992).

used by the BOCs,[3] and later expanded the proceeding to encompass the Switching Cost Information System ("SCIS") utilized by the BOCs[4] to develop the direct investments for each BSE.[5]

BellSouth and the other BOCs filed their Direct Cases on May 18, 1992, and eight intervenors filed oppositions or comments on or about October 16, 1992.[6]

In this Rebuttal, BellSouth addresses the comments made by intervenors and demonstrates that BellSouth's ONA costing and pricing procedures are reasonable and fully consistent with the Commission's requirements.

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[3] Open Network Architecture Tariffs of Bell Operating companies, CC Docket No. 92-91, Order Designating Issues for Investigation, 7 FCC Rcd 2604 (1992).

[4] US West used a different costing system, SCM, but for purposes of this Rebuttal, US West's system will be included under references to SCIS unless otherwise noted.

[5] See Commission Requirements for Cost Support Material to be Filed with Open Network Architecture Access Tariffs, CC docket No. 92-91, Memorandum Opinion and Order, 7 FCC Rcd 5307 (1992), para. 10.

[6] Those parties intervening are as follows: Ad Hoc Telecommunications Users Committee ("Ad Hoc"), Allnet Communication Services, Inc. ("Allnet"), American Telephone and Telegraph Company ("AT&T"), General Services Administration ("GSA"), MCI Telecommunications Corporation ("MCI"), Metromedia Communications Corporation ("Metromedia"), Sprint Communications Company LP ("Sprint"), and Williams Telecommunications Group, Inc. ("WilTel").

II. BELLSOUTH'S COSTING AND PRICING METHODOLOGIES ARE REASONABLE, AND UNIFORMITY OF SUCH METHODOLOGIES FROM BOC TO BOC IS NEITHER CONSISTENT WITH THE COMMISSION'S RULES NOR WOULD SUCH UNIFORMITY BE NECESSARY TO ACHIEVE THE COMMISSION'S GOALS

A major theme of the commenters is that the Bureau should specify uniform costing and pricing methodologies which the BOCs must all follow. The Bureau should reject this suggestion. To do so would be inconsistent with the "flexible cost-based approach" adopted by the Commission for the pricing of new services under Price Cap regulation, including BSEs.[7]

As BellSouth stated in its Direct Case, the applicable standard for reviewing the BOCs' BSE rates in this proceeding is whether or not such rates were developed consistent with the "flexible cost-based" rules. In the ONA/Part 69 Order, the Commission determined that such rules would best satisfy the Commission's goals of assuring that BOCs would have the flexibility to price efficiently and the incentive to innovate.[8] The Commission further determined that such an approach would best satisfy its concerns regarding excessively high rates and discriminatory

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[7] Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, Policy and Rules Concerning Rates for Dominant Carriers, CC Docket Nos. 89-79 and 87-313, Report and Order & Order on Further Reconsideration & Supplemental Notice of Proposed Rulemaking, 6 FCC Rcd 4524 (1991) ("ONA/Part 69 Order").

[8] Id., paras. 38-44.

pricing.[9] The Bureau should not and cannot deviate from this flexible approach to the costing and pricing of services in this investigation.

Commenters support their request for uniform requirements through speculation that anti-competitive pricing and manipulation of costs and rates will occur if BOCs are allowed to use a flexible approach to costing and pricing their BSEs. They ask each BOC to explain why there are variations in costs and rates from BOC to BOC, as if such variations are, in and of themselves, evidence of unreasonableness.

First of all, there is simply no proof that BOCs have manipulated their rates to benefit their own competitive operations, as some commenters speculate. Moreover, there is adequate protection from any such conduct under the present rules. The Commission has required BOCs to flag those BSEs which its own competitive operations use or plan to use, and the Bureau should merely evaluate each BOC's cost support to determine whether or not that BOC's various BSEs have been costed and priced on a consistent basis and, if not, whether or not any variations are reasonable.

Clearly, in the case of BellSouth, the Bureau must find that the methodologies BellSouth used are reasonable. BellSouth specifically demonstrated in its Direct Case, in response to the Commission's questions regarding its costing

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9 Id.

and pricing methodologies that BellSouth rates are reasonable and within the ambit of the existing rules. As BellSouth stated there, its costing methodology consists of the use of long-run incremental costs to identify a price floor. BellSouth's rate-making methodology assures that rates do "not recover more than a just and reasonable portion of...overhead costs"[10] because the rates, although not required to be, were determined by use of the relationship of the revenues and incremental costs of the related category, local switching. BellSouth showed in its Direct Case that the use of such methodologies is consistent with the Commission's rules. In fact, if anything, such a methodology does not allow sufficient flexibility. Consistent with the Commission's stated goals in this proceeding, including the goal of providing BOCs with the flexibility to price efficiently and the policy of providing BOCs with incentives to innovate, BOCs should be permitted to price based upon market conditions and the value of a service to customers and should not be required to justify the particular amount of loadings for any particular service with reference to other services. None of the intervenors has shown that BellSouth's methodologies are inconsistent with the Commission's rules, are unreasonable, or are otherwise discriminatory or anti-competitive.

BellSouth did not manipulate its costing and pricing of

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[10] 47 C.F.R. Section 61.49(g)(2).

BSEs as commenters speculate may have occurred. BellSouth used a methodology to determine costs of BSEs consistent with what it uses for other non-BSE services. For instance, the Switching Cost Information System ("SCIS") is one which BellSouth uses for identifying the price floor for not only BSEs but also for non-BSE services, and the BellSouth-supplied inputs are generated in the same manner for both BSEs and non-BSEs for which SCIS is utilized. In addition, the methodology for determining direct costs from the direct investment identified by SCIS is the same methodology utilized by BellSouth for its other new services filed under the Commission's Price Cap regulation. Similarly, the methodology used to identify the local switching loadings factor is the same which BellSouth has used for other Price Cap new services, and BellSouth, although not required to do so under the Commission's rules, loaded all of its BSEs uniformly.

There simply would be no reason for the Bureau to require BellSouth to depart from such an approach to its costing and pricing of BSEs merely for the sake of mirroring the methodologies used by one or more of the other BOCs, or some other uniform methodology that the commenters might suggest. Indeed, both the freedom contemplated by the Commission's "flexible cost-based approach" and protection against the anti-competitive pricing feared by some of the commenters can be achieved by the approach utilized by

BellSouth and perhaps by any number of other approaches which are consistently applied across a BOC's BSEs, utilizing costs developed in a consistent manner and rates determined either in a consistent manner or with deviations justified by market conditions or otherwise.[11]

In light of this, the Commission should conclude its investigation of the BOCs' ONA tariffs and recognize that the variations among costing and ratemaking methodologies exhibited by the BOCs is reasonable. At a minimum, the Commission should find that the procedures underlying the development of BellSouth's BSE costs and rates are reasonable and within the guidelines of the Commission's "flexible cost-based approach" to BSE pricing.

III. BELLSOUTH HAS ADEQUATELY RESPONDED TO THE DESIGNATED ISSUES AND HAS DEMONSTRATED THAT ITS COST AND RATE METHODOLOGIES ARE REASONABLE AND CONSISTENT WITH THE COMMISSION'S "FLEXIBLE COST-BASED APPROACH" TO THE PRICING OF NEW SERVICES.

In the Designation Order, the Bureau directed BOCs to address specific issues regarding their costing and pricing methodologies. The intervenors for the most part agree with

[11] By this statement regarding justification of deviations from uniform loadings, BellSouth does not intend to endorse such a requirement as the appropriate requirement under the Commission's rules, but rather is merely stating the requirements as they presently exist. It is BellSouth's position that the "flexible cost-based approach" adopted by the Commission is far too restrictive than necessary given the Commission's goals under Price Cap regulation. Clearly, as long as the rates for any services are sufficient to cover the incremental costs of that service, then unlawful subsidization of one service by another is avoided.

BellSouth's explanations as to the reasonableness of its approach. In this section of its Rebuttal, BellSouth addresses those few areas in which the intervenors disagree with BellSouth.

A. Issue 1 - Identification of Direct Investment

In its Direct Case, BellSouth explained that the use of an incremental cost analysis was the economically correct way in which to identify the price floor for a service, and thus, the marginal cost option of SCIS was the appropriate option to utilize. All opposing commenters who addressed this issue agree with this view, except MCI.

MCI's criticisms of BellSouth's approach totally miss the mark. The thrust of MCI's contention is that BellSouth's use of an incremental cost approach fails to allocate total switch investment to the BSEs. MCI is apparently concerned that if all services which use the same switching investment are priced at or near an incremental cost level but below an average cost level, then the full cost of the switch will not be recovered by those services and the result would be discriminatory pricing.[12] These contentions ignore both the pricing standards under the Commission's rules and BellSouth's purpose in identifying incremental costs of its services, i.e., to identify not the price but the price floor.

In the Commission's Price Cap proceedings, the

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[12] MCI, pp. 5, 6, 9-10.

Commission has stated clearly that it intended for Price Cap regulation to afford carriers flexibility in pricing their services, with the lower bound of prices, i.e., the price floor, to be identified by the incremental costs of the service. In the Commission's Price Cap Reconsideration Order, the Commission stated that:

> the rates price cap LECs file for new services must continue to demonstrate that incremental revenue exceeds incremental cost.[13]

This remains the price floor standard under the Commission's rules[14] and, furthermore, as BellSouth demonstrated in its Direct Case, incremental costs are the economically-correct means for identifying a price floor. Consistent with this, SCIS and the marginal cost option of SCIS are not intended to be mechanisms to identify the rate for a service, but rather to identify the price floor below which the rate may not be established.

Furthermore, MCI apparently misses the fact that, despite the freedom to do otherwise, BellSouth loaded the incremental costs of its BSEs at the same level as the ratio

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[13] Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Order on Reconsideration, 6 FCC Rcd 2637 (1991), para. 127 (emphasis supplied).

[14] The Commission, in its Memorandum Opinion & Order on Second Further Reconsideration in this docket removed the requirement that BOCs provide a net revenue showing for new services, but did not remove the requirement that new services be priced above the price floor. Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, Policy and Rules Concerning Rates for Dominant Carriers, CC Docket Nos. 89-79 and 87-313, 7 FCC Rcd 5235 (1992).

of incremental costs and revenues of the local switching category. It is beyond comprehension how MCI believes that this could somehow be discriminatory or anti-competitive, and MCI provides no substantiation for its allegations in that regard.

MCI also misconstrues BellSouth's description of the effect of the average cost option. BellSouth did not state that the average cost option of SCIS produces a fully-allocated result. Rather, BellSouth said as follows:

> BellSouth did not use the average run option of SCIS because that option produces a "revenue requirement"-type cost, not a cost that would be saved if the BSE were not provided.[15]

Thus, BellSouth only used this terminology in a descriptive sense to indicate that the average option attempts to allocate growth capacity costs in the processor to all units in service, i.e., it allocates the total cost of the switch rather than identifying the incremental switch investment created by demand for the new product under study. That is not the economically correct means for identifying a price floor.

MCI also incorrectly states that the marginal option of SCIS "fails to recognize the contribution to overall demand caused by the provisioning of a BSE or any other service" and concludes that BellSouth has failed to acknowledge that "any service which generated demand for switch processor

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[15] BellSouth Direct Case, p. 8 (emphasis supplied).

utilization will advance the need for capacity expansion."[16] On the contrary, the marginal option of SCIS computes the incremental switch investment caused by the demand for the product under study. If the total of demand for the new BSE and the demand for existing services exceeds the switch capacity at any time prior to switch replacement, then the new BSE has advanced the placement of the new switch. As a consequence, SCIS assigns a portion of the investment and costs associated with that advancement to the new BSE. On the other hand, if the new BSE demand and the existing demand never exceed the switch capacity during the interval prior to replacement, then no advanced placement is needed and no additional investment is made as the result of offering the new BSE. In this case, the incremental investment-related cost associated with the new BSE is zero.

MCI also incorrectly states that the SCIS marginal option does not produce a long-run view of incremental costs because, MCI erroneously believes, the option "considers processor investment to be fixed."[17] While it is true that SCIS in some cases considers the processor cost to be fixed, this is not always the case. In those cases where the volume and type of traffic do not impact the processor capacity, or where the processor will not exhaust prior to replacement as a result of the introduction of the service

[16] MCI, pp. 7-8.

[17] MCI, p. 8.

being studied, the processor costs will be considered to be fixed. This is because the service under study will not affect the scheduling of replacement processor investments. However, in those cases where the processor exhausts prior to replacement, the processor cost is considered to be variable. Thus, when the total demand for the new service plus the demand for existing services exceeds the capacity of the switch, the marginal option of SCIS appropriately assigns a portion of the investment for the replacement switch to the new service.

MCI also is incorrect in contending that BellSouth should use the average cost analysis because, if so, BellSouth would be "better off." This is not necessarily the case, for a determination of whether or not a firm would be "better off" depends upon an analysis of a variety of factors including market demand relative to various price levels. Furthermore, such an argument assumes that the rates for the various BSEs will be established uniformly in proportion to their average costs, rather than based upon market conditions for each individual BSE. As BellSouth has discussed above, the Commission's rules do not require uniform loadings. Also, MCI's contention assumes that the use of an average cost analysis would yield higher rates and revenues for a BSE than using an incremental cost approach. As can be seen by Exhibit C to BellSouth's Direct Case, when such a hypothetical comparison was made using the same rate development approach as BellSouth employed for its initial ONA filing BSEs some of the averaged cost-based BSE rates actually decreased.

Although Ad Hoc, through its consultant, supports the use of a marginal cost approach,[18] it apparently believes that the costs of a BSE are identified twice - once in the BSE costs and once in the BSA.[19] This is not the case. Marginal costs identify only those costs which are directly caused by the service under study. Unbundled BSE costs were not double-counted because the unbundled BSE revenues were removed from the existing bundled revenues and the BSAs were residually priced based upon the remaining revenues. The new BSE costs were not double-counted because those costs were identified on a marginal basis, i.e., identification of costs which each directly causes, and such costs were not in the bundled features group costs to begin with.

B. Issue 2 - Selection of Model Offices and Issue 4 - Exclusion of 1ESS and/or 1AESS Switching Investment and Costs

In its Direct Case, BellSouth explained that, consistent with its utilization of a forward-looking

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[18] See Ad Hoc, ETI Memorandum, p. 12, Item 2, which states "[t]he cost of the service should be limited to actual data showing either that new capacity additions would be required to provide the service or that facility additions would be advanced in that period in a manner that is causally related to the service in question."

[19] Id., p. 12, Item 1.

incremental cost analysis, it used forward-looking incremental investment to develop the direct costs of the BSEs. For BellSouth such investment is all digital because BellSouth will not be deploying analog equipment in the future. No commenter successfully shows that such an approach is unreasonable. Indeed, all commenters which addressed this issue agree that such an approach is reasonable, except, perhaps, for Ad Hoc.

Ad Hoc, through its consultant, states that the investment studied should be that which "will be used to provide the service."[20] Such an approach would be inconsistent with an incremental cost approach which Ad Hoc otherwise appears to support. Under which the relevant question is "what investment will be saved or deferred if the feature or service is not offered?" Even if analog switching equipment is used to provide a BSE in BellSouth, if BellSouth were not to offer such BSE, the analog investment would already be incurred and would not be either saved or deferred. This is because all of the analog equipment which BellSouth intends to use for its BSEs is already in place and available. When such equipment is replaced, it will be replaced by digital, not analog, technology. Any incremental investment required to provide the new service will be digital.

As for the number of digital offices studied,

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[20] Id.

BellSouth's approach was reasonable. BellSouth did not use a sampling of digital offices, but rather intended to include all digital offices for which information was available. Indeed, BellSouth used approximately 95% of its offices in its studies. The 5% were omitted because the information was not available at the time the studies were performed rather than because of any intentional or manipulative exclusion.

C. Issue 3 - Cost of Money

BellSouth explained in its Direct Case that it had utilized a cost of money factor of 13.52%, consistent with BellSouth's use of a long-run incremental costs analysis. BellSouth also stated that, given BellSouth's loadings methodology, the rates arrived at would have been the same whether BellSouth had utilized a 13.52% or a lower factor equal to the authorized rate of return.[21] Nevertheless, despite this fact, the Commission should not require the use of a cost of money tied to the authorized rate of return because such an approach would not be consistent with a forward looking analysis. A forward looking analysis

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[21] This is because, under BellSouth's methodology, the same cost of money factor is utilized in determining the direct costs of the BSEs as the direct costs of the local switching category. Thus, if the cost of money factor is changed, the relationship of the BSE direct costs and rates would still be the same as the relationship of the local switching category direct costs and revenues as long as the cost of money factor is the same for both.

requires a forward-looking view of the cost of money and can differ from the authorized rate of return.

Clearly, BellSouth utilization of a cost of money factor of 13.52% in the identification of both its BSE direct costs and its local switching category direct costs cannot be deemed to have resulted in "risk premium" rates, as ETI contends. Rather, "risk premium" rates would be rates which exceed the loadings identified by BellSouth, i.e., loadings which are disassociated from the average loadings of the related services and, instead, are based upon the given LEC's analysis of the unusual risk associated with the particular offering. This would include the unique cost of capital which would be associated with the offering given its particularly risky nature. BellSouth did not utilize a "risk premium" in its ratemaking, did not recalculate a cost of capital unique to the BSEs filed, but rather utilized the cost of capital consistent with a forward-looking incremental cost approach for BellSouth's telecommunications operations as a whole.[22] Thus, the Commission's rules did not require BellSouth to provide a "risk premium" analysis in support of its rates.

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[22] While the cost of money factor may change over time, consistent with a forward-looking approach, the currently effective factor is applied consistently to all services when the price floor is calculated.

D. Issue 5 - Level of Overhead Loadings, Issue 6 - Uniformity of Loadings, and Issue 7 - Comparison of Rate and Cost Ratios

In BellSouth's Direct Case, BellSouth demonstrated that it had developed the overhead loadings for its BSEs in a manner consistent with the Commission's current "flexible cost-based" pricing approach under Price Cap regulation. BellSouth developed the rates for its BSEs using the same loadings relationship as exists for the local switching category as a whole. BellSouth identified the direct costs for each BSE and the direct costs for the local switching category, and applied the same ratio of direct costs to revenues for the local switching category to the direct costs of each BSE to arrive at the rate. Although the Commission specifically has not required that such loadings be uniform, BellSouth chose to do so in this instance, and therefore there was no lack of uniformity in loadings requiring justification.

The opposing commenters either do not comment on these issues at all,[23] i.e., on whether or not BellSouth has satisfied the Commission's pricing requirements, or are generally satisfied with BellSouth's explanation that it met such requirements.[24] GSA and MCI agree that the methodology utilized is consistent with the existing rules, but MCI

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[23] These parties are Allnet, AT&T, Metromedia and Sprint.

[24] These commenters are MCI, GSA, WilTel.

criticizes those rules.[25] Ad Hoc contends that it cannot tell whether the loadings of the various BOCs are reasonable and contends that new guidelines should be adopted.[26] For instance, Ad Hoc, through its consultant, contends that BOCs should be required to use "representative, comparable" overhead loadings.[27] Clearly, the Bureau cannot in this proceeding adopt new guidelines for the pricing of ONA services. The existing rules were established in a rulemaking proceeding and can only be changed in another rulemaking proceeding. Furthermore, although not required to do so, BellSouth did use "representative, comparable" loadings for its BSEs because it utilized the same loadings which apply to the local switching category as a whole. Such an approach is reasonable,[28] and, as discussed more fully in Section II supra, the Commission can not and should not require a uniform approach. Ad Hoc's contention that it cannot determine whether BOCs' loadings are reasonable is highly questionable, at least as far as BellSouth is

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[25] Thus, MCI's criticism of the existing rules is irrelevant to this proceeding and, rather, is a matter for reconsideration.

[26] Ad Hoc, ETI Memorandum, pp. 10 and 12, Item 4.

[27] Id. p. 10.

[28] Although such an approach is reasonable, BellSouth does not endorse a requirement mandating uniform loadings, as is discussed more fully in Section II supra. As long as the rates for a service are sufficient to cover the incremental costs of that service then subsidization of the service by others is avoided.

concerned, given that BellSouth provided information to document the methodology utilized and used "representative, comparable" loadings. BellSouth provided the calculations for the local switching loadings factor and its application to the direct costs of each BSE. Ad Hoc has not shown and could not show that such loadings are inconsistent with the existing rules of the Commission.

IV. <u>THE COST SUPPORT INFORMATION UNDERLYING BELLSOUTH'S BSE RATES, AND AVAILABLE TO THE BUREAU FOR ITS REVIEW, IS FAR MORE THAN NECESSARY FOR THE BUREAU TO DETERMINE THAT BELLSOUTH'S METHODOLOGIES ARE REASONABLE.</u>

As explained by the Bureau in the SCIS Order,[29] the BOCs, including BellSouth, utilized a cost model, Switching Cost Information System ("SCIS"), to develop the direct engineered, furnished and installed ("EF&I") investments associated with each BSE.[30]

SCIS identifies technology-specific unit incremental investment associated with each component of a switch technology which is then used to develop the direct EF&I investment in a switch technology necessary to provide a service, such as a BSE. The direct recurring incremental costs of a service are then developed from the direct EF&I

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[29] Commission Requirements for Cost Support Material To Be Filed with Open Network Architecture Access Tariffs, Memorandum Opinion and Order, 7 FCC Rcd 1526 (1992) ("SCIS Order").

[30] US West used a similar system, SCM, which will be included under the term "SCIS" herein, unless otherwise noted.

investment of each switch type by the application of in-plant and annual cost factors. The SCIS model and documentation were developed by Bellcore, and inputs to the model include certain vendor information regarding the switch technology and prices as well as BOC-supplied information regarding matters such as costing method, choice of certain options within SCIS, and company-specific data.

The Bureau required the BOCs to file the SCIS model, supporting documentation, associated BOC material and vendor data ("SCIS and SCIS-related information") as cost support for their BSEs.[31] However, the Bureau determined that such information was competitively sensitive and exempt from public disclosure.[32] The Bureau found the SCIS information to be competitively sensitive information because it contains information regarding switch technology, engineering and design, as well as cost efficiencies and customer-specific vendor discounts, which, if disclosed, could cause competitive harm to the vendors. Second, the SCIS model, its logic, its algorithms, and its documentation, were developed by Bellcore at significant time and expense, and the release of such information could allow a competitor to replicate or otherwise utilize such information, at the competitive harm of Bellcore.

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[31] Commission Requirement for Cost Support Material To Be Filed with Open Network Architecture Access Tariffs, Order, 7 FCC Rcd 521 (1992). See also SCIS Order.

[32] Id.

Despite the competitively sensitive nature of the SCIS and SCIS-related information, the Bureau desired to make available to intervening parties as much of it as possible "consistent with appropriate safeguards against competitive harm."[33] In the SCIS Order, the Bureau considered how best to balance the interests of intervening parties in access to the information with the interests in keeping such information private. The Bureau determined to allow intervening parties which entered into non-disclosure agreements to have access to the information minus certain specified items: assumption tables, investment tables, realtime tables, memory tables, and actual vertical service and feature costs for Material/EFI.[34] Parties entering into such non-disclosure agreements received the remainder of the SCIS information, albeit in redacted form.

Given that intervenors would not have access to the entire SCIS and SCIS-related information, the Bureau required the BOCs to designate an independent auditor to assist it in making an evaluation. The auditor's examination was to

> include a validation of the SCIS model's methodology, a list of model parameters subject to BOC variation, and a validation of the method used by each BOC to convert technology-specific SCIS output reports into aggregated outputs.[35]

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[33] SCIS Order, para. 9.

[34] Id., Attachment B.

[35] Id., para. 72.